

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2002-160-C - ORDER NO. 2002-514

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JULY 19, 2002

IN RE: Joint Application of Davel Communications) ORDER APPROVING
Group, Inc. and PhoneTel Technologies, Inc.) MERGER, GRANTING
for Approval of Merger and Transfer of) MOTION FOR
Control.) EXPEDITED REVIEW;
) AND CANCELLATION
) OF CERTIFICATE OF
) TRANSFEROR

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Joint Application filed by Davel Communications, Inc. (“Davel”) and PhoneTel Technologies, Inc. (“PhoneTel”) (referred to collectively herein as “Applicants”) requesting Commission approval of an agreement to transfer the control of PhoneTel to Davel Communications, Inc. The Applicants also requested the Commission to cancel PhoneTel’s Certificate of Public Convenience and Necessity to provide interexchange services in South Carolina. The Application was filed pursuant to S.C. Code Ann. Section 58-9-310 (Supp. 2001) and the applicable regulations of the Commission. In addition, the Applicants requested a waiver of a formal hearing and disposition of the Application.

Davel is a Delaware corporation with its principal offices located in Tampa, Florida. Telaleasing Enterprises, Inc. (“TEI”) is an Illinois corporation and a wholly-

owned subsidiary of Davel. TEI was granted authority to provide pay telephone service in the State of South Carolina in Docket No. 85-150-C, Order No. 92-540.

PhoneTel is an Ohio corporation with its principal offices located in Cleveland, Ohio. PhoneTel is a certificated pay telephone service provider in the State of South Carolina pursuant to a certificate granted by this Commission in Docket No. 85-150-C, Order No. 93-1069. PhoneTel has also operated as a certificated provider of resold telecommunications services in this State pursuant to Order No. 94-451 issued in Docket No. 93-681-C. Because Phone Tel no longer provides reseller services in this State, it requests this Commission to withdraw its authority to do so. Davel and PhoneTel entered into a certain merger agreement in February, 2002, whereby PhoneTel, upon consummation of the merger, will become a wholly owned subsidiary of Davel.

By letter dated May 20, 2002, the Commission's Executive Director instructed the Applicants to publish a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to provide notice of the Application to any interested parties and to advise interested parties of the manner and time in which to file pleadings to participate in the docket. The Applicants filed Affidavits of Publication as proof that it had complied with the instructions of the Executive Director. No Petitions to Intervene, letters of protest, or comments were received by the Commission with regard to the instant Application.

MOTION FOR EXPEDITED REVIEW

Subsequent to notice of the Application being published and after the return date expired with no intervention or opposition, counsel for the Applicants requested that the

matter be scheduled for final disposition by the Commission at its next weekly meeting which was scheduled to take place on Tuesday, June 18, 2002. The parties waived their right to a hearing in the matter. Along with the request for a waiver of the hearing, the Applicants filed verified testimony to support the Application. The matter was brought then to the Commission for consideration.

Upon consideration of Davel and PhoneTel's request for final disposition at a regularly scheduled Commission meeting and the waiver of its right to a hearing in the matter, the Commission finds that expedited review should be granted. The Commission finds that notice of the Application was properly afforded to the public and that no interested person sought to become a party to the proceeding. The Commission finds that procedural due process was afforded in this matter and further finds that Davel and PhoneTel made a knowing waiver of a formal hearing. Therefore, the Commission will consider the Application in the context of its regularly scheduled weekly meeting, with court reporter present, and for purposes of the expedited review, the Commission will deem the examination of the Application and verified testimony during the course of the Commission's regularly scheduled meeting with court reporter present as a hearing on this matter.

EXAMINATION OF THE APPLICATION AND VERIFIED TESTIMONY

According to the Application and the verified testimony of Paul W. Tripp, Associate General Counsel, Davel Communications, Inc., Davel and PhoneTel entered into an agreement and plan of reorganization and merger on February 19, 2002, and that

upon completion of the merger, PhoneTel will become a wholly-owned subsidiary of Davel.

Mr. Tripp testified that Davel is a Delaware corporation that operates its pay telephones in South Carolina through its wholly-owned subsidiary, TEI, an Illinois corporation. According to the Application and testimony of Mr. Tripp, TEI currently operates approximately 1,950 payphones in South Carolina pursuant to its authority granted by Order No. 92-540, dated July 10, 1992, in Docket No. 85-150-C. Mr. Tripp adds that Davel is qualified to do business in South Carolina by the Certificate of Authorization issued to TEI by the South Carolina Secretary of State. A copy of the South Carolina Secretary of State Certificate of Authorization is attached as Exhibit One to Mr. Tripp's testimony.

PhoneTel, according to the record and testimony, is an Ohio corporation based in Cleveland, Ohio. Pursuant to its authority granted by Order No. 93-1069 in Docket No. 85-150-C, PhoneTel currently operates approximately 1,500 payphones in South Carolina. Also PhoneTel is currently authorized to operate as a reseller of telecommunications services in South Carolina by Order No. 94-451 issued in Docket No. 93-681-C. The record and Mr. Tripp's testimony reveal that PhoneTel is no longer providing reseller services and intends to withdraw its reseller authority. PhoneTel requested that its authority to provide reseller services in South Carolina be cancelled.

By the Application, Davel proposes to acquire the telecommunications assets of PhoneTel pursuant to a merger agreement entered into by the Applicants February 19, 2002. PhoneTel will maintain its separate legal and corporate identity, but will become a

wholly-owned subsidiary of Davel upon consummation of the agreement. No alteration to the Applicants' current certificates will be necessary according to the Application and testimony of Mr. Tripp. Both Applicants will continue to provide payphone service under their existing certificates. Davel will continue to operate under the authority granted in Order No. 92-540 for its wholly-owned subsidiary TEI, and PhoneTel will continue to operate under the authority granted in Order No. 93-1069.

With regard to the public interest considerations, the record and the testimony of Mr. Tripp reveal that the merger will result only in a change of ownership and will have no adverse effect on their customers in South Carolina. The payphone service currently being provided by the Applicants will remain the same, thus the merger will be undertaken in a transparent and seamless fashion that will not affect the provision of intrastate services. Mr. Tripp also testified regarding the benefit affected customers will receive from the proposed transaction. According to the testimony, the Davel/PhoneTel enterprise will make available operating efficiencies, enhanced development and market resources, shared management information, and other support systems and greater coordination, all in the interest of offering improved payphone service to end users, which is in the public interest. The record further reveals that the proposed merger will create greater financial resources for TEI and PhoneTel as payphone providers in South Carolina. According to the record, the significant operational, financial and marketing advantages that will be produced by the merger will allow the Applicants to continue to provide high quality services to their existing and prospective customers, and compete effectively in the payphone service market in South Carolina.

Concerning the managerial, technical and financial qualifications, Mr. Tripp testified that the principals and senior management personnel of Davel and PhoneTel have significant technical and managerial experience in payphone service provider operations and other business experiences. Both Davel and PhoneTel's work forces are highly trained and motivated to provide the highest quality service to the public. Mr. Tripp states that the Applicants, in operation of their payphone service, will continue to comply with the rules, regulations and requirements of the states in which they are authorized to operate and those of the Federal Communications Commission.

By their Application, Davel and PhoneTel believe that by combining their expertise and resources as independent payphone providers, under the current challenging state of the payphone industry, operations will be streamlined, service quality enhanced, and more innovative payphone services provided, all in the public interest and to the benefit of customers and location owners which Davel and PhoneTel serve.

Upon review and consideration of the Application, the verified testimony of Mr. Tripp, and the applicable law, the Commission hereby issues its findings of fact:

FINDINGS OF FACT

1. Davel is a Delaware corporation with its principal offices in Tampa, Florida, and operates as a payphone service provider through its wholly-owned subsidiary, TEI, an Illinois corporation. TEI was granted authority to provide payphone services within the State of South Carolina on July 10, 1992 by Order No. 92-540 in Docket No. 85-150-C.

2. PhoneTel is an Ohio corporation with its principal offices in Cleveland, Ohio. PhoneTel was granted authority to provide payphone services within the State of South Carolina by Order No. 93-1069 in Docket No. 85-150-C. Additionally, PhoneTel is certificated to operate as a reseller of telecommunications services in South Carolina by Order No. 94-451 in Docket No. 93-681-C.

3. The proposed transaction is for the transfer of control of PhoneTel and its respective assets used in the provision of telecommunications services in South Carolina to Davel. Upon consummation of the proposed merger, PhoneTel will become a wholly-owned subsidiary of Davel. Following the transaction, Davel and PhoneTel will continue to provide payphone services pursuant to its present authority granted in South Carolina.

4. The Commission finds that the proposed transaction to transfer the assets of PhoneTel to Davel, as described in the Application and verified testimony, will not adversely affect their current customers in South Carolina and the transaction will not adversely affect the provision of payphone services in South Carolina.

5. The Commission finds that the proposed transaction is in the public interest as it will enhance the operating efficiencies of both Davel and PhoneTel. The efficiencies gained as a result of the proposed asset transfer will afford the Applicants the opportunity to provide high quality services to their customers and to compete effectively in the payphone service market in South Carolina.

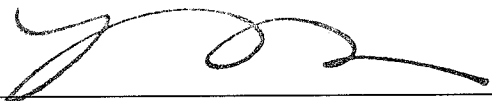
Based on the above Findings of Fact, the Commission hereby determines that the Application filed by Davel and PhoneTel requesting Commission approval of a Merger and Transfer of Control will not adversely affect the public interest nor will the

conversion adversely affect the provision of payphone services in South Carolina, and therefore, the Commission approves the requested asset transfer. The Commission also approves the request by PhoneTel to cancel its certificate to provide interexchange telecommunications services in South Carolina.

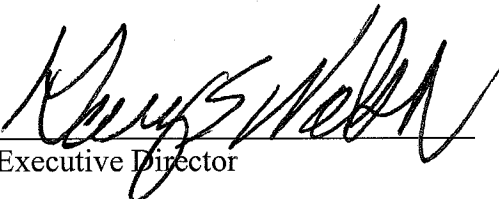
IT IS THEREFORE ORDERED THAT:

1. The joint Application of Davel Communications, Inc. and PhoneTel Technologies, Inc. for approval of Merger and Transfer of Control is hereby approved.
2. PhoneTel's Certificate of Public Convenience and Necessity to provide interexchange telecommunications services in South Carolina is hereby cancelled.
3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)